

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

RODNEY DALE HOOD	§	
VS.	§	CIVIL ACTION NO. 1:21-CV-458
DIRECTOR, TDCJ-CID	§	

MEMORANDUM ORDER OVERRULING MOVANT’S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Movant Rodney Dale Hood, a prisoner in the custody of the Texas Department of Criminal Justice, Correctional Institutions Division, filed this Motion for Relief from Judgment pursuant to Federal Rule of Civil Procedure 60(b).

The Court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this Court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the motion.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. Movant filed objections to the magistrate judge's report and recommendation.

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration of all the pleadings and the relevant case law, the Court concludes that Movant’s objections lack merit.

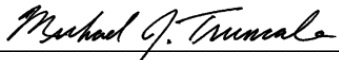
Citing *Ochoa Canales v. Quarterman*, 507 F.3d 884 (5th Cir. 2007), Movant asserts that the district court has jurisdiction to consider a Rule 60 motion filed in a habeas proceeding. In this case,

Movant is not challenging the result of a federal habeas proceeding. Instead, Movant is attempting to file a new federal proceeding challenging a state court conviction. Federal Rule of Civil Procedure 60(b) does not give a federal district court authority to overturn a criminal conviction imposed by a state court. *United States v. O'Keefe*, 169 F.3d 281, 289 (5th Cir. 1999).

ORDER

Accordingly, Movant's objections [Dkt. 17] are OVERRULED. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge [Dkt. 12] is ADOPTED. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED this 4th day of May, 2022.



Michael J. Truncale
United States District Judge